

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE:)
NATIONAL PRESCRIPTION) CASE NO. 1:17CV2804
OPIATE LITIGATION)

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TRANSCRIPT OF TELECONFERENCE PROCEEDINGS HAD BEFORE
THE HONORABLE JUDGE DAN A. POLSTER, JUDGE OF SAID
COURT, ON MONDAY, SEPTEMBER 16TH, 2019,
COMMENCING AT 2:30 O'CLOCK P.M.

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P R O C E E D I N G S

THE COURT: Good afternoon, everyone.

I guess I want to — and we have a court reporter here. I think J & J suggested it. I think it is a good idea, so this will be transcribed. This is obviously the Opiate MDL 2804.

This is a discussion with counsel for the two Plaintiffs in the October trial and the eight Defendants we currently have.

Obviously, there is, at least one of these Defendants, a settlement has been announced. It may very well go through. There may be other settlements, but at the moment, we have eight, and I wanted to discuss a few things.

The trial documents are due September 25th. That's a week from Wednesday. The main thing I am looking for are relatively short trial briefs. I don't need a regurgitation of all the law and everything you had in those summary judgment motions.

I am really doing it to see — get a sense from each side how you are going to prove your case and how you are going to defend your case so I can follow what's going on. So I don't want more than ten pages.

The jury instructions, they are to be agreed

1 upon, and only if there are disagreements, then,
2 you can highlight where you disagree. But I mean,
3 RICO is established; Ohio RICO is established; same
4 with conspiracy, public nuisance, the law should be
5 clear.

6 Motions in limine are also due. I don't
7 want hundreds of them. All right. I want — if there
8 are a few important things that you think the Court
9 should decide before trial that will streamline things,
10 fine, but if I get a hundred motions in limine, I am just
11 going to toss them all. I won't even read them, and my
12 staff won't read them, so be circumspect about what you
13 are doing. They should be short and succinct.

14 Someone asked a question about the length of
15 time for opening statements. I guess I am looking to you
16 for suggestions. I mean, opening statements are not
17 closing arguments. They are a road map for your
18 evidence. There are, you know, eight Defendants.

19 I don't want people repeating the same
20 thing. Okay? So why don't you all — you can figure
21 that out and give me some suggestions. If I have to set
22 elements, I will, but I would rather hear what you say
23 and suggest. You have got some of the best trial lawyers
24 in the country.

25 And good lawyers know what to say, and that

1 — unless you are the most spellbinding orator on the
2 planet, you much past 45 minutes, people are going to go
3 to sleep. So I don't think they should be longer than
4 that, and I really think 30 — I really think 30 minutes,
5 particularly since the Defendants shouldn't be repeating
6 what each of you are saying.

7 So if you focus on, sort of discuss with
8 each other, you only need one person to make general
9 points. You don't need all eight.

10 The main thing I wanted to discuss is public
11 nuisance. And my objective from the start was to do
12 everything I could to make the trial fair for all the
13 parties.

14 And the prerequisite for that, a fair trial
15 is that it be manageable and intelligible to a jury, and
16 defense counsel pointed out multiple times that a trial
17 of 22 Defendants with myriad claims was unworkable,
18 unmanageable. I agreed.

19 I made it clear to the Plaintiffs that they
20 had to streamline it. And that has happened. We are
21 down from 22 Defendants to eight through severance,
22 bankruptcy, settlements. It wouldn't surprise me if by
23 the time we reach October 21 we will have fewer than
24 eight, but eight is manageable.

25 I requested submissions the last week or two

1 on how to handle the public nuisance claims, and I want to
2 complement everyone. They were short; they were well
3 written; they were right to the point, and they helped me
4 crystallize my thinking.

5 There was never a question that we were
6 going to have a jury to decide federal and state RICO
7 and conspiracy, and if they find liability on any of
8 those claims, what damages? There was never any question
9 about that. The issue was what to do about public
10 nuisance.

11 This was highlighted in the submissions, but
12 I want to make sure I am correct about this. It appears
13 that there will be a very, very substantial overlap in
14 the evidence that the Plaintiffs are going to introduce,
15 the lay testimony, the expert testimony, the documents on
16 the federal RICO, the state RICO, conspiracy and the
17 public nuisance.

18 Is that correct from the Plaintiffs'
19 side?

20 MR. WEINBERGER: Your Honor, this is
21 Pete Weinberger, there is overlap. We agree.

22 THE COURT: All right. And I think
23 substantial overlap. I don't think we are talking about
24 two — you know, there is substantial overlap.

25 And second, I think everyone agreed that in

1 the event there is liability for public nuisance, the
2 question of abatement, monetary, non monetary abatement,
3 remedy for public nuisance is equitable. It is for the
4 Court to decide and not a jury.

5 Is there any party that disagrees with
6 that?

7 MR. PISTILLI: Your Honor, this is Chris
8 Pistilli for McKesson.

9 I had indicated in our submission, it is our
10 understanding that true abatement relief is appropriate
11 for the jury. As we've indicated in prior submissions,
12 it is not Defendants' position that the relief Plaintiffs
13 are seeking, which is essentially monetary damages in its
14 abatement, but we understand your Honor has already ruled
15 on it.

16 THE COURT: Well, there can be economic and
17 non economic abatement. Abatement is abatement. It is
18 not damages for anything in the past.

19 If prospective relief to abate a nuisance
20 costs something, well, it costs something. It is
21 directing that things be done, and usually, things cost
22 something to do.

23 So it is —

24 MR. PISTILLI: We understand your Honor's
25 ruling on that.

1 THE COURT: Well, I think I've ruled.

2 In other words, it is not for — all right.

3 It seems to me what I am proposing is that a
4 jury decide whether or not any of the Defendants are
5 liable for public nuisance. And that's all the jury will
6 decide with respect to public nuisance. There is not
7 going to be any evidence or testimony about what any
8 relief or abatement would be in the event there is
9 nuisance, how much it would cost, who would do what,
10 whatever.

11 We are not going to take the time in the
12 trial for that because the jury isn't going to decide it,
13 and my concern is, it may confuse them, and they may
14 jumble things up and conflate that with past damages.

15 And that's for me to decide if and only if
16 the jury determines that anyone has committed a public
17 nuisance. And again, I think the Defendants made a good
18 argument that they are entitled to a jury determination
19 on the facts, which support a public nuisance claim, an up
20 or down, and it seems to me in that case the jury should
21 decide the liability as well. It avoids any possible
22 inconsistency between what I do and what the jury does.

23 If the jury is finding the facts, the jury
24 can — you know, the instructions will tell them what the
25 elements are, and they will decide. And so we will have

1 a jury trial on the state and federal RICO and conspiracy
2 and public nuisance liability only.

3 And then, at the end of the trial, if there
4 is — if and only if there is a verdict on public nuisance
5 against one or more of the Defendants, I will discuss
6 that with the parties, and we will schedule an
7 evidentiary proceeding at some point post trial, and I
8 will determine what the appropriate remedy is, and then,
9 of course, either side can appeal from that.

10 So I am putting that out there, and I want
11 to know if anyone has a real problem now, if they want to
12 — you know, this is discussion. I synthesized this from
13 what I read, and it seems to me it has the merits of
14 either — it either shortens the trial or keeps the trial
15 the same length and let's both sides spend more hours on
16 the claims you've got, and you don't have to take it up
17 on putting in a whole lot of evidence about what
18 abatement would look like.

19 So that's a plus. It avoids — the jury is
20 just going to be confused. You know, I can instruct them
21 that's for me, not for them, but that's hard to follow,
22 and they are going to wonder why they are spending their
23 time on that.

24 And three, it eliminates the possibility
25 that somehow that testimony about the future is going to

1 — and how much abating that will be will somehow leak in
2 or influence their decision on anything else.

3 So I think from where I sit it makes sense
4 on all three grounds. So does anyone have any thoughts
5 or reaction to that?

6 MR. PETROCELLI: Your Honor, Dan Petrocelli.
7 I represent Johnson & Johnson & Jansen.

8 We certainly agree with the Court that the
9 matter of abatement and all the evidence with respect to
10 that is not for the jury but for the Court in some
11 post-trial proceeding if and when liability already were
12 established.

13 However, as we indicated in our submission,
14 we also believe that the fact of public nuisance is also
15 for the Court.

16 THE COURT: I know that, Dan, but you were
17 in the minority. Okay? I think all the other Defendants
18 said, at least, the facts are for the jury. And so I'm
19 concerned about somehow inconsistent verdicts because if
20 there is a substantial overlap in the testimony and the
21 jury is deciding the facts and all the other claims that
22 are clearly legal and then I am sitting there hearing the
23 same testimony and deciding whether or not there is a
24 public nuisance, I think that's a problem.

25 So I think it is better if — I think it is

1 better for the jury to decide it. If someone — I mean,
2 I understand, Dan, I read your brief. I saw that
3 position, but I think if you are suggesting that somehow
4 I sit there and I hear the same evidence and regardless
5 of what the jury does on state and federal RICO and
6 conspiracy I come to my own conclusion on public nuisance,
7 you haven't explained why that isn't a problem.

8 MR. PETROCELLI: Well, I think it is
9 fundamentally an equitable claim, and it is not for the
10 jury to decide, and I do believe that it will entail
11 taking additional evidence of beyond the three legal
12 claims.

13 And I fear that —

14 THE COURT: What is that significant
15 evidence? I didn't hear that from the Plaintiffs. On
16 the remedy, absolutely.

17 MR. PETROCELLI: And your Honor, I am afraid
18 that if the public nuisance is in front of the jury, there
19 is going to be leakage of abatement-type matters into the
20 record in front of the jury, which will prejudice the
21 Defendants.

22 THE COURT: Well, there isn't going to be
23 any testimony about abatement. That's what I am saying.

24 The parties aren't going to introduce it,
25 and I will give an instruction similar to the one I give

1 in criminal cases that says, if you find the Defendant is
2 guilty, the punishment is up to me, and you are not even
3 to guess or speculate or even consider what that will be,
4 so I will do the same thing.

5 They are just to find whether or not the
6 Plaintiff has made out and met every element of the claim
7 of public nuisance, and they will have to vote on each of
8 the eight Defendants separately and yes or no.

9 And I will have an instruction that it will
10 be strictly up to the Court to decide what to do about it
11 if you find there is public nuisance liability, and that's
12 that. And there won't be any testimony about injunctive
13 relief, abatement measures, anything about that at all,
14 zero. I won't even let anyone talk about it, you know,
15 what they might do or should do.

16 MR. PETROCELLI: Or how much they are
17 seeking.

18 THE COURT: Or how much they are seeking.

19 And right, they can talk about how much they
20 are seeking for past damages, damages on the conspiracy
21 and the RICO. That's different. They can say the past
22 eight years we have spent whatever. There is going to be
23 testimony about that.

24 But I am not going to allow anyone to even
25 talk about what they might be seeking or wishing for the

1 future in opening statement or anything, zero. You can
2 use your time on the seven weeks we have on the rest of
3 the case.

4 So that's my —

5 MR. WEINBERGER: Your Honor, this is Pete —

6 THE COURT: Yes.

7 MR. WEINBERGER: — Weinberger. Can I just
8 interrupt you for a second?

9 THE COURT: Yeah, you weren't interrupting.
10 I asked everyone.

11 MR. WEINBERGER: I just want to verify —

12 THE COURT: Yes.

13 MR. WEINBERGER: — I want to be clear that
14 under the RICO claims and the civil conspiracy claims we
15 also have claims for future damages, not associated with
16 abatement, but to the extent the damages continue into
17 the future, we do have evidence of that, and that is
18 relevant to those claims.

19 So I didn't — I want to make sure we are
20 clear on the record with respect to that.

21 THE COURT: Well, how can you seek damages
22 for the future?

23 MR. WEINBERGER: Well, to the extent that
24 the damages that we have suffered, that we are proving
25 are past damages, to the extent that they continue into

1 the future and can be calculated with reasonable
2 certainty, we are entitled to present those to the jury
3 under those causes of action.

4 THE COURT: Well —

5 MR. PETROCELLI: Your Honor, this is
6 Mr. Petrocelli. This is precisely the issue that I was
7 alluding to because this is an argument for getting
8 everything in front of the jury contrary to everything
9 you just got finished saying.

10 THE COURT: Well, I don't think — I mean —
11 all right.

12 In a personal injury case, if you have
13 someone who is injured and you are getting past —
14 compensation for past injury, that could include, if you
15 can quantify it, things that will have to be done in the
16 future.

17 For example, a life-care plan, if you have
18 someone who has been injured, has catastrophic injuries
19 and needs care for — say their life expectancies is ten
20 years, they are going to need care for ten years — and
21 you can quantify it through fact witnesses, experts,
22 whatever, and say "hey, it is going to cost a hundred
23 thousand dollars a year for the next 20 years to care for
24 this person," a jury can find that.

25 Whether or not you have got that kind of

1 proof or whether it is speculative, you know, I don't
2 know. But again, that's not abatement; that's — you
3 know, again, I will wait and see what that testimony is.
4 That's not equitable, and that's not abatement.

5 It has got to be specifically tied to past
6 harm, and I am not sure exactly, Pete, exactly what you
7 are seeking. And you know, you will have to spell that
8 out, and I will have to look at the law, but that's not
9 — that's not public nuisance; that's — so if you can
10 prove that and the law permits it, you may be able to get
11 it, and a jury could consider it.

12 You better put that in your trial briefs
13 because I am going to have to decide that, and if I — I
14 will look at that very carefully. That hasn't really
15 been fronted in all the issues that I've had to decide.
16 So you better put that in the trial briefs.

17 MR. REED: Your Honor —

18 THE COURT: Yes.

19 MR. REED: — I apologize. I apologize for
20 interrupting. Steve Reed for Teva.

21 Just to be clear, Teva agrees with the
22 approach, your Honor, that you've outlined. We don't
23 agree that the Plaintiffs are entitled to future damages.
24 We will likely have a dispute or a debate, at least, over
25 what types of remedies they are entitled to under their

1 public nuisance claim, but that's something that we can
2 take up if and when it is necessary.

3 THE COURT: Well, that's the whole point.

4 MR. REED: Right. Exactly. I am agreeing
5 with you, your Honor.

6 I think you've outlined the most efficient,
7 sensible approach.

8 THE COURT: All right.

9 MR. REED: We are anxious to use the trial
10 time efficiently.

11 THE COURT: I need to understand from the
12 Plaintiffs exactly what you are talking about with these
13 future damages because I am not certain — I am not
14 certain that you can get them, but I will look, and so
15 you better get that to me as quickly as possible, and the
16 Defendants can respond.

17 If they think the Plaintiffs are not
18 entitled to seek — remember, we don't have individuals,
19 specific individuals in this case; we have got Government
20 entities.

21 And I, quite frankly, thought that what you
22 are seeking in those legal claims are past damages, money
23 that the cities, counties, states had spent above and
24 beyond what they otherwise would have spent in law
25 enforcement, public health treatment, all that, that they

1 are laying out, that they wouldn't have otherwise laid
2 out or lost opportunity to use that money for something
3 else. I didn't think you were going to —

4 MR. WEINBERGER: Understood, your Honor.

5 THE COURT: — that you were going to try
6 and have the jury guess how much you are going to have
7 to pay in the future. I am not at all sure you can do
8 that.

9 MR. WEINBERGER: We'll — we will present
10 that in our trial brief.

11 There is one other issue that I wanted to
12 address, and again, this is Pete Weinberger. With
13 respect to the public nuisance claim, one of the elements
14 is whether the public nuisance is abatable, which
15 will require testimony if we are going to try that
16 phase. Before we get to what the abatement remedy is,
17 it will require testimony about how we would address
18 that element of the abatement through expert testimony.
19 So —

20 THE COURT: I don't want any of that stuff.
21 I mean, whether it is abatable is up to me to decide. It
22 seems to me that's part of the equitable remedy if and
23 only if the jury decides any of the Defendants have
24 created a public nuisance.

25 If they've created it, the remedy is up to

1 me. If I determine that it can't be abated, well, then
2 there is no remedy. All right. If I determine there is
3 nothing — that there is nothing anyone can do to make it
4 better or fix it, well, then, that's the end of it, but
5 it seems to me that's for me to decide, not the jury.

6 They decide the elements of what public
7 nuisance is and whether the Plaintiff has proven all those
8 elements with respect to any of the eight Defendants. I
9 mean, am I wrong about that? I don't see how an element
10 of public nuisance is whether or not it is abatable, the
11 nuisance is causing —

12 MR. REED: We agree with your Honor.

13 THE COURT: All right. So we are not going
14 to have any testimony about whether a public nuisance is
15 or isn't abatable or how to abate it. We will put that
16 off, and if there is liability, I will schedule it with
17 the parties.

18 MR. SKOLNIK: Judge Polster, this is
19 Hunter Skolnik. I am sorry to interrupt; just a quick
20 point: So would this contemplate a post — some type of
21 post jury verdict proceeding —

22 THE COURT: Yeah.

23 MR. SKOLNIK: On the —

24 THE COURT: That I would do.

25 MR. SKOLNIK: — abatement plan?

1 THE COURT: Yes, Hunter.

2 MR. SKOLNIK: And that would include your
3 assessment if it is abatable? I'm sorry.

4 THE COURT: If and only if the jury finds
5 public nuisance liability on at least one Defendant, then
6 I will have a post-trial proceeding. Whether you call it
7 a bench trial, an evidentiary hearing, I don't think it
8 matters, it is the same thing.

9 And I will hear testimony from both sides as
10 to, A, whether or not it can be abated, and B, if so, how
11 to do so. And I will make a decision, and obviously, it
12 will be written, and either side or both sides can appeal
13 from it.

14 And when I schedule it, I will figure it out
15 with the parties. I mean, it is not going to be the next
16 day obviously. It seems to me that's the most efficient
17 way to do it.

18 MR. SKOLNIK: Understood. Thank you.

19 THE COURT: Obviously, if the Plaintiffs
20 don't prove public nuisance, we never have it. Which is
21 another reason to put it off. All right.

22 Well, I think that's what we are — unless
23 someone — I mean, if someone feels very strongly that
24 they will be — that they will be prejudiced by this or
25 that this somehow — I mean, if I am violating

1 established Sixth Circuit law or Supreme Court law by
2 doing this, I want to know.

3 I don't want to go hell-bended to a
4 reversible error, but — so if someone thinks there is
5 established Sixth Circuit or Supreme Court law to the
6 contrary, I certainly want to know about it, and I will
7 have to look very carefully because that's not my
8 intention.

9 Or if someone thinks that they will be very
10 seriously prejudiced by this approach, I want to know
11 that because I am certainly not looking to do that. I am
12 trying to do the opposite, in fact, to be very fair to
13 both sides. So I would like to know that.

14 And then, very quickly, like I would say no
15 later than Thursday at noon, if someone thinks I have got
16 — I mean, there is Sixth Circuit or Supreme Court law
17 that I am ignoring or that they will be seriously
18 prejudiced, file something by noon on Thursday. And
19 then, I am trying to think, the best way to address this
20 question of future damages, so — well, Judge Ruiz is
21 suggesting to do it in the motion in limine.

22 MS. HUGHES: If not sooner.

23 THE COURT: Well, I am trying to think.

24 If we do it that way, yeah, why don't we do
25 that? Why don't we do it this way?

1 Since it has sort of been teed up, each side
2 — I mean, Plaintiffs can file one motion in limine if
3 you think you are entitled to future damages on the state
4 or federal RICO or conspiracy and set out the evidentiary
5 and legal basis for it.

6 And if the Defendants feel that the
7 Plaintiffs aren't entitled, you file, and then you can
8 each respond to each other's. So I get the full picture
9 according to the schedule we have. And again, I don't
10 need eight briefs from the Defendants. Okay.

11 If you all have a similar position, I would
12 appreciate one. And if you need a little longer, if you
13 are all eight joining in it, that's okay, but we don't
14 need eight things saying the same thing. I assume
15 probably all eight are going to agree on it, so we will
16 just get one, and I will take a look at it, and that's
17 obviously something I will need to decide before trial
18 because it affects a lot.

19 MR. REED: Your Honor, Steve Reed again for
20 Teva.

21 THE COURT: Yeah.

22 MR. REED: There are two issues if I may.
23 One is on the motion in limine, it is my understanding
24 that we have aggregate page limits and set for motions
25 in limine. I am concerned that this new round today

1 will lead into what is already a limited allocation.

2 May we have your permission to —

3 THE COURT: Yeah.

4 MR. REED: — we will keep these short but
5 whatever pages —

6 THE COURT: Since I decided to add one, what
7 do we have, and I can add.

8 MS. HUGHES: We have I believe —

9 VOICE: I believe it was 40 pages or so in
10 the aggregate, something like that. I am sure the
11 parties know.

12 THE COURT: Does anyone know what the
13 aggregate page limit for motions in limine are?

14 MS. LUCAS: Your Honor, this is Amy Lucas
15 for Jansen. It is 44 pages for aggregate each side; 22
16 pages for the aggregate, distributor, manufacturer,
17 pharmacy brief, and eight pages per party for individual
18 issues.

19 THE COURT: It might be more than 44, but I
20 didn't quite understand that. 44 in the aggregate?

21 MS. LUCAS: We understand that each
22 Plaintiff and the Defendant each file one joint defense
23 or joint Plaintiff motion. That's 44 pages. Then, the
24 manufacturing group can file a manufacturers' specific
25 motion as 22 pages, and then each individual — Jansen

1 then has eight pages to brief our individual issues.

2 VOICE: There has been some discussion.

3 MS. LUCAS: Right. There has been some
4 discussion about moving pages around Special Master
5 Cohen, but that's —

6 THE COURT: I am not aware of any of this.
7 I haven't seen it, so I don't know. That seems to be a
8 whole lot of pages, a lot more than I want or need
9 already. That looks like a hundred pages or more per
10 side. I mean, I think that's crazy.

11 So I am certainly not going to add to that.
12 I thought it was something a lot smaller, like maybe 40
13 pages total. That certainly seems ample to me to what we
14 are talking about. So I am certainly not going to add to
15 that. That seems — I got to take a look at that. That
16 seems way too long.

17 MR. PETROCELLI: Your Honor, Mr. Petrocelli
18 here.

19 While you are thinking about that —

20 THE COURT: I am not thinking; I am just
21 saying I thought about it. It is way too long.

22 MR. PETROCELLI: Okay. Well, apparently,
23 they are reading from some kind of order that was
24 previously issued.

25 THE COURT: If it has been issued, I am

1 stuck with it.

2 MS. LUCAS: 24 pages.

3 THE COURT: Well —

4 MR. PETROCELLI: Amy, do you have a
5 correction?

6 MS. LUCAS: It is 24 pages for the industry
7 group. If you want to look at the order, your Honor,
8 docket entry 1709 and —

9 THE COURT: All right. Well, it seems —

10 MR. PETROCELLI: Your Honor, but my
11 question, in addition to this page issue, is this
12 additional motion in limine that you are allowing each
13 side to file, is that due on the same day, which I think
14 is the 25th of September?

15 THE COURT: Right. That should be the same
16 day so I can address this stuff before trial. That's the
17 whole idea, and this is an important one because I have
18 got to — you know, this affects some substantial
19 testimony possibly.

20 MR. PETROCELLI: Thank you, your Honor.

21 THE COURT: Okay. In fact, that covers what
22 I had to cover, and again, I appreciate everyone's hard
23 work. My job is to make this trial, do whatever I can to
24 make it intelligible to a group of people that we select
25 as jurors. So that's what I am trying to do. Okay?

1 Thank you, all.

2 MR. PETROCELLI: Your Honor, Mr. Petrocelli
3 again.

4 THE COURT: Well, all right. Some people
5 may have gotten off, but go ahead.

6 MR. PETROCELLI: Yeah. About the
7 prescreening process, we come to learn that juror summons
8 have gone out.

9 THE COURT: Right.

10 MR. PETROCELLI: And they apparently include
11 a question about whether the jurors are available for a
12 trial of approximately 8 weeks.

13 THE COURT: Right.

14 MR. PETROCELLI: And I want to get more
15 clarity on how that process is being conducted.

16 In other words, what's the question —

17 THE COURT: I don't know exactly. I
18 stay out of that. The jurors know — I mean, there
19 is no point bringing people in who say "I can't" — you
20 know, "I can only stay two or three weeks,"
21 Mr. Petrocelli.

22 MR. PETROCELLI: Well, your Honor, though, a
23 lot of people say that when they are just trying to get
24 out of jury duty.

25 THE COURT: Well, I can't do anything about

1 that. I want people who understand that this is a
2 lengthy commitment, and if they have personal or
3 professional obligations that include that, we are not
4 counting them, and I want to start with people who, at
5 least, can do that.

6 MS. HUGHES: And I assume that the jury
7 department is —

8 THE COURT: The jury department knows how to
9 do that.

10 MS. HUGHES: Right.

11 THE COURT: And they do it when we have long
12 trials, and I don't get into that. So if someone wants
13 to call the jury department that he can find out, but I
14 am not getting involved in that. Our jury department are
15 professionals, and they know how to do these things.

16 MR. PETROCELLI: Thank you, your Honor.

17 THE COURT: So I just thought it was not
18 efficient to bring in a bunch of people, and we lose them
19 all because they say "well, I have got to do this and
20 that in November, and I am out of here."

21 It is going to be difficult enough, then,
22 focusing on people who can be fair and impartial. So we
23 are going to start. The only people we are going to
24 bring in are people who have said that they are able to
25 serve on a long trial.

1 MS. HUGHES: And are, in fact, able.

2 THE COURT: Well, I assume they wouldn't say
3 they are able if they are not. So if they are able and
4 willing to do it.

5 Okay. Thank you, all.

6 (Teleconference concluded at 3:11 p.m.)

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10 C E R T I F I C A T E

11 I, George J. Staiduhar, Official Court
12 Reporter in and for the United States District Court,
13 for the Northern District of Ohio, Eastern Division,
14 do hereby certify that the foregoing is a true
15 and correct transcript of the proceedings herein.

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19 s/George J. Staiduhar
20 George J. Staiduhar,
Official Court Reporter

21 U.S. District Court
22 801 W. Superior Ave., Suite 7-184
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23 (216) 357-7128

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